

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES' SENTENCING MEMORANDUM

The United States recommends that Varrie Johnson Kindall be sentenced to a total of 36 months imprisonment for her diversion of \$197,950.45 from the Jefferson County Community Service Fund (the “Fund”) and the charitable purposes for which it was intended, for obstruction of justice, and for schemes that defrauded the Social Security Administration, Department of Labor, and United Mine Workers Pension Fund. Additionally, Kindall should be ordered to pay restitution to the victims of her crimes and forfeit the ill-gotten proceeds. The sentence requested by the United States is reasonable but not greater than necessary under the factors set forth in 18 U.S.C. § 3553(a).¹

¹ In separate sentencing memoranda, the United States recommends that the Court sentence John Rogers to 14 months imprisonment (Doc. 71) and Fred Plump to 12 months imprisonment.

I. THE FRAUD SCHEMES AND CONSPIRACY TO OBSTRUCT JUSTICE

A. Kindall's Scheme to Defraud the Fund and Obstruct Justice

Kindall was former state Representative John Rogers' personal and professional assistant. Eventually, their relationship evolved into a romance. Beginning in March 2019, and continuing until April 2023, Kindall, Rogers, and Fred Plump, principal of Piper Davis Youth Baseball League, conspired together to defraud the Fund, a taxpayer-supported and legislator-controlled fund designed to serve the public good. Additionally, each of the defendants attempted to obstruct justice and thwart federal investigators and prosecutors.

Kindall and Rogers set up the kickback scheme, and Kindall was the primary conduit between Rogers and the Fund. She assisted Rogers and Plump in preparing forms needed to request donations from the Fund, picked up checks from the Fund that she delivered to Plump, and then arranged with Plump to receive the kickbacks. Kindall deposited the money stolen from the Fund into her bank account and used it to financially support herself and Rogers.

After the scheme was discovered by federal agents and prosecutors, Kindall requested a meeting at the United States Attorney's Office and falsely stated that Rogers did not know Kindall was receiving kickbacks from Plump. Kindall later admitted that these false statements occurred as part of a conspiracy and in

exchange for Rogers' promise to pay Kindall's mortgage and take care of her children if Kindall went to prison.

Additionally, Rogers and Kindall defrauded the Fund by requiring kickbacks from Organization #1 and attempted to obstruct justice by influencing the principal of Organization #1 not to cooperate with federal agents. They also unsuccessfully pitched the kickback scheme to another entity.²

B. Kindall's Fraud Against the Social Security Administration, Department of Labor, and United Mine Workers

Kindall is the daughter of M.J. and A.J. M.J. received benefit payments from the United Mine Workers of America ("UMWA") Pension Plan, Federal Black Lung Benefits Program, and Social Security Administration. Following M.J.'s death in 1980, A.J., as M.J.'s surviving dependent, received the payments.

Kindall was the representative payee on A.J.'s bank account at Wells Fargo. The benefit payments A.J. received, both electronically and via paper checks mailed to Kindall's residence in Chelsea, Alabama, were deposited into the Wells Fargo account. A.J. died in September 2017, but Kindall failed to notify the government of A.J.'s death, as she was required to do. Instead, Kindall forged A.J.'s signature on paper checks that were deposited into the Wells Fargo account and converted those and the other funds electronically deposited into the account to

² Further details regarding the scheme to defraud the Fund are discussed in Kindall's PSR and the United States' Sentencing Memorandum in Rogers' case (Doc. 71).

her personal use. Between 2017 and 2022, Kindall retained benefits totaling \$87,767.10 that she was not entitled to receive.

II. Varrie Johnson Kindall should receive 36 months in custody

The PSR calculates the total offense level as 20 and criminal history category as I, resulting in an advisory Guidelines range of 33-41 months. The United States asserts that, after consideration of all relevant factors, the final offense level should be 13 and advisory Guidelines range should be 12-18 months. Additionally, Kindall is subject to a mandatory minimum sentence of 24 months consecutive to any other sentence based on her guilty plea to aggravated identity theft in case number 23-cr-184. [PSR ¶ 150.] Based on the considerations discussed in this Memorandum and elsewhere, the United States recommends that the Court sentence Kindall to a total of 36 months in custody. The recommended sentence is reasonable considering the factors set forth in 18 U.S.C. § 3553(a) and is sufficient but not greater than necessary to promote the purposes of sentencing set forth in 18 U.S.C. § 3553(a)(2).

Kindall encouraged and assisted Rogers' abuse of the office for their personal gain. Rather than ensuring the Fund's money was used to help inner city kids learn to play baseball, as they promised would be done, Kindall and Rogers stole \$200,000 to enrich themselves. Kindall, Rogers, and Plump helped destroy Piper Davis and deprived other worthy charities to satiate their greed. And they

attempted to obstruct justice. Additionally, Kindall stole her deceased mother's identity, including forging her signature, and for five years converted the various benefit payments sent to her mother.

The recommended sentence is sufficient but not greater than necessary to promote the purposes of sentencing set forth in 18 U.S.C. § 3553(a)(2). When considered with the recommended sentences for Rogers and Plump, a 36-month sentence for Kindall will adequately reflect the seriousness of her crimes, promote respect for the law, and provide just punishment. Additionally, the recommended sentence will afford much needed general deterrence to similar criminal conduct by those who assist state and local officeholders. Perhaps, after learning of this sentence, the next legislative assistant faced with the decision of conspiring to commit fraud or prevent it will make the better choice.

III. CONCLUSION

Based on the foregoing argument and authority, and upon the entire record, the United States respectfully requests that the Court sentence Varrie Johnson Kindall to a total of 36 months in custody, including 24 months as to Count 5 in Case Number 23-184 consecutive to 12 months on the remaining counts in each case to which she pleaded guilty. The United States further requests that the Court order Johnson to pay restitution of \$42,210 to the Social Security Administration, \$37,247.10 to the Department of Labor Black Lung Benefit Program, and \$8,400

to the United Mine Workers of America 1974 Pension Plan, as well as \$197,950.45 to the Jefferson County Community Service Fund jointly and severally with co-conspirators Fred Plump and John Rogers. Additionally, the United States requests that the Court order Johnson to forfeit \$197,950.45 as proceeds of the fraud scheme against the Fund.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 12, 2024, I electronically filed this document via CM/ECF and thereby caused a copy to be served on all counsel of record.

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